

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-100377
	:	TRIAL NO. B-0902774
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
PIANKHI GRIMES,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

Defendant-appellant Piankhi Grimes appeals the judgment of the Hamilton County Court of Common Pleas convicting him on two counts of murder, in violation of R.C. 2903.02(A), with a firearm specification; two counts of felonious assault, in violation of R.C. 2903.11(A)(1); one count of felonious assault, in violation of R.C. 2903.11(A)(2); and one count of having weapons under a disability, in violation of R.C. 2923.13(A)(3).

In the early morning on April 18, 2009, Grimes opened fire in a bar, killing Shawn Evans and Demetius Baylor and injuring Tinita McKinney, Anthony Holloway, and Sheila Thomas. At the time of the shooting, Grimes was under a disability based on convictions for a felony offense of violence and drug offenses.

In his first assignment of error, Grimes argues that the trial court erred by allowing the state to remove an African-American prospective juror because of the juror's race, in violation of *Batson v. Kentucky* (1986), 476 U.S. 79, 106 S.Ct. 1712. The assignment of

error appears directed to the state's use of a peremptory challenge to dismiss prospective juror 20. On this record, we cannot say that the trial court's finding of no discriminatory intent was clearly erroneous. See *State v. Phelps*, 1st Dist. No. C-100096, 2011-Ohio-3144, ¶17-23, citing *State v. Hernandez* (1992), 63 Ohio St.3d 577, 583, 589 N.E.2d 1310. Accordingly, we overrule the first assignment of error.

In his second assignment of error, Grimes contends that his conviction was not supported by sufficient evidence and was against the manifest weight of the evidence. Grimes essentially challenges the state's evidence identifying him as the shooter.

We overrule this assignment of error. First, upon the evidence adduced at trial, reasonable minds could have reached different conclusions as to whether each element of the crimes had been proved beyond a reasonable doubt. See *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus, following *Jackson v. Virginia* (1979), 443 U.S. 307, 99 S.Ct. 2781.

And second, we find nothing in the record of the proceedings below to suggest that the jury, in resolving the conflicts in the evidence adduced on the charged offenses, lost its way or created such a manifest miscarriage of justice as to warrant the reversal of Grimes's convictions. See *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541. We note that the weight to be given the evidence and the credibility of the witnesses are primarily for the trier of fact. *State v. DeHass* (1967), 10 Ohio St.2d 230, 227 N.E.2d 212, paragraph one of the syllabus.

In his third assignment of error, Grimes argues that the trial court abused its discretion by granting the jury's request during deliberations for a reading of two witnesses' testimony. After reviewing the record, we find no abuse of the trial court's discretion. See *State v. Berry* (1971), 25 Ohio St.2d 255, 267 N.E.2d 775, paragraph four of the syllabus. Accordingly, we overrule the assignment of error.

In his fourth assignment of error, Grimes contends that his maximum, consecutive sentences are contrary to law and an abuse of discretion. The trial court imposed an aggregate term of 62 years to life. The assignment of error is not supported by the record. See *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124.

Some of Grimes's sentences were mandatory, and all of his sentences were within the statutory range for the offenses. And we presume that the trial court considered the applicable sentencing statutes when determining Grimes's sentences. See *State v. Brown*, 1st Dist. Nos. C-100309 and C-100310, 2011-Ohio-1029, ¶14, citing *Kalish*, supra, at fn. 4; see, also, *State v. Wilson*, 129 Ohio St.3d 214, 2011-Ohio-2669, 951 N.E.2d 381, at ¶31. On the state of this record, we cannot say that the trial court acted unreasonably, arbitrarily, or unconscionably in imposing the sentence, including the maximum and consecutive terms. Accordingly, we overrule the fourth assignment of error.

Therefore, we affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

DINKELACKER, P.J., HILDEBRANDT and CUNNINGHAM, JJ.

To the clerk:

Enter upon the journal of the court on November 2, 2011
per order of the court _____.
Presiding Judge